

Remarks

Claims 3-9, 11-14, 16-18, 20-22 and 24 are pending in the application. Of these, claims 11-14, 16-18 and 20-22 are allowed. Applicant thanks the Examiner for this indication of allowance. Claim 24 is herewith amended to more clearly define the invention. No new matter is added. Entry of the proposed amendment is respectfully requested. Claims 3-9 and 24 stand rejected under 35 USC §103(a). Applicant respectfully traverses the rejections.

Claims 3-9 and 24 stand rejected under 35 USC §103(a) over United States patent number 5,801,747 to Bedard (*hereinafter* Bedard) in view of EP 1091581A2 to Smith (*hereinafter* Smith) in further view of US patent number 5,610,653 to Abecassis (*hereinafter* Abecassis) and in still further view of United States patent number 6,637,029 to Maissel et al. (*hereinafter* Maissel). Applicant respectfully traverses the rejections.

The present invention relates to an apparatus and method for assisting in the selection of television programs for viewing. Abstract. In this context, claim 24, as amended, recites:

A system for generating a list of suggested scheduled television programs comprising:

- means for receiving data comprising broadcast time and scheduled program characteristics of a plurality of scheduled television programs;
- means for identifying a first television program being viewed by a user;
- means for receiving data regarding a first program characteristic of the first television program, said first program characteristic being one of said scheduled program characteristics of said plurality of scheduled television programs;
- means for storing a first relevancy factor for said first program characteristic;
- means for storing a user profile for said user, said user profile including characteristic weights given by the user to the scheduled program characteristics of said plurality of scheduled television programs, said characteristic weights further including a weight for said first program characteristic of said first television program;

first processor means for periodically incrementing a weight for said first program characteristic in the user profile, wherein an incremented weight for said first program characteristic includes a number of time periods the first television program is watched by the user times the first relevancy factor for said first program characteristic;

first user interface means for selecting a future time period and for requesting a list of suggested scheduled television programs scheduled to be broadcast during said future time period;

second user interface means for selecting between a first mode and a second mode, wherein if said first mode is selected, a first one of said plurality of scheduled television programs having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included with nonzero weighted programs in said list of suggested scheduled television programs, and if said second mode is selected, a second one of said scheduled television program having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is not included in said list of suggested scheduled television programs;

and further comprising second processor means for generating said list of suggested scheduled television programs by sorting said television program schedule data according to said scheduled program characteristics of said scheduled television programs, said characteristic weights in said user profile, said mode selection, and said future time period selection. Emphasis added.

In contrast, the Bedard reference relates to a method and apparatus for monitoring television viewing activity including "an electronic program guide... a block-out feature to prevent or limit the viewing of specified channels or categories of programming, or to provide information of interest on the Internet." Abstract.

Previously Presented Deficiency 1

As in the previous Office Action mailed on November 7, 2007, the now pending Office Action alleges that Bedard shows various claimed features of the invention, but acknowledges that the Bedard reference does not teach or suggest "means for storing a first relevancy factor for ... [a] first program characteristic."¹

Previously Presented Deficiency 2

¹ "Bedard fails to disclose means for storing a characteristics relevancy factor

The Patent Office acknowledges that Bedard does not teach or suggest "first processor means for periodically incrementing a weight for said first program characteristic in the user profile, wherein an incremented weight for said first program characteristic includes a number of time periods the first television program is watched by the user times the first relevancy factor for said first program characteristic."¹ The office action relies on the Abecassis reference for these features.

Previously Presented Deficiency 3

In addition, the Office Action acknowledges that Bedard fails to teach or suggest "first user interface means for selecting a future time period and for requesting a list of suggested scheduled television programs scheduled to be broadcast during said future time period."²

¹ and the periodic incrementing of characteristic weights includes considering a characteristics relevancy factor (time watched times relevancy factor)

² selecting a future time period for displaying suggested television programs scheduled to be broadcast during said future time period

Previously Presented Deficiency 4

Further, the Office action acknowledges that Bedard does not teach or suggest "second user interface means for selecting between a first mode and a second mode, wherein if said first mode is selected, a first one of said plurality of scheduled television programs having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included in said list of suggested scheduled television programs, and if said second mode is selected, a second one of said scheduled television program having at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is not included in said list of suggested scheduled television programs." ¹

The Office Action proposes to remedy these deficiencies by the combination of Bedard with Smith, Abbecassis, and Maissel. However, even accepting, *arguendo*, the propriety of the proposed combination, Bedard, Smith, Abbecassis and Maissel, whether alone or in combination with the references now of record, do not teach or suggest every feature of the invention as claimed.

As noted previously, Smith relates to an electronic program guide that "allows the user to select programmes of interest from [a] display and then store the same in a manner which allows the programmes which have been selected to be viewed at a later time." Paragraph 3. The Office Action asserts that "Smith teaches an electronic program guide wherein users are provided with the option to view future programming, allowing users to plan their viewing schedule in advance," and that, in view of Smith, one of skill in the art would allegedly "modify the system disclosed by Bedard to include in the user interface means for selecting a future time period, as taught by Smith, for the benefit of allowing users to plan their viewing schedule well ahead of time." Page 5. Accordingly, it appears that the Smith reference is applied by the Patent Office against acknowledged Deficiency 3, as identified above.

¹ and a second user interface means for selecting between a first mode wherein a television program having a plurality of characteristics wherein at least one of said plurality of characteristics has a zero weight inside table of characteristic weights for a user is included in said list of suggested television programs, and a second mode wherein a television program having at least one characteristic which has a zero weight in said cable is not included in said list of suggested television programs.

Abecassis relates to a "video method and system for automatically tracking a viewer defined target within a viewer defined window of a video image as the target moves within the video image." Abstract. It is unclear whether the Abecassis reference is still offered against Deficiency 1 as identified above. If so, for the reasons previously provided, Applicants respectfully submit that, absent impermissible hindsight, the combination of Bedard and Abecassis would not have taught or suggested the claimed features of the invention to the creative practitioner of ordinary skill in the art.

As to Deficiency 2, Applicants thank the Examiner for the clarification provided in the present Office Action. The clarification notwithstanding, Applicants respectfully submit that, absent impermissible hindsight, the practitioner of ordinary creativity and skill in the art would not combine Bedard and Abecassis to achieve "processor means for periodically incrementing a weight for said first program characteristic in the user profile, wherein an incremented weight for said first program characteristic includes a number of time periods the first television program is watched by the user times the first relevancy factor for said first program characteristic."

The Maissel reference is offered in combination with Bedard, Smith and Abecassis against acknowledged Deficiency 4. The Patent Office relies on Maissel's discussion of an "anti-profile" in attempting to demonstrate "a first mode... wherein... scheduled television programs having... characteristics whose weight in said user profile is equal to zero is included."

Specifically, Maissel discusses how "a recorded viewer preference profile could be used as an anti-profile in the sense that customization could occur opposite to what would be the result of using the recorded preference profile; that is, a particular program that was preferred according to the recorded viewer preference profile could be, for example, deemphasized." Emphasis added. Column 15, line 5-10.

Applicants respectfully submit that this is completely different from the present invention in which changing modes relates to "at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included with

nonzero weighted programs in said list of suggested scheduled television programs." The present invention relates to "inclusion." The Maissel reference discusses the presentation of a completely different set of programs (i.e., an "anti-profile"). Even if, *arguendo*, Maissel is properly combined with the other cited references, and if the profile of Maissel could be construed to include zero weighted and nonzero weighted programs as claimed, there is nothing in Maissel to teach or suggest a mode in which "at least one of said scheduled program characteristics whose weight in said user profile is equal to zero is included with nonzero weighted programs."

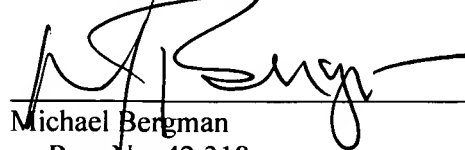
To the contrary, the Maissel's approach of "customization... opposite to what would be the result of using the recorded preference profile," (emphasis added) must exclude all of the preferred programs of the base user profile. Consequently, the Maissel approach cannot possibly result in the claim 24 features identified above. Maissel teaches directly away from including 0 weighted "with nonzero weighted programs." Accordingly, the proposed combination of Bedard with Smith, Abbecassis, and Maissel does not anticipate the invention of claim 24 or render it obvious and, therefore, the rejection of claim 24 under 35 USC §103(a) is overcome.

Claims 3-9 each depend, directly or indirectly from claim 24 and incorporate every feature thereof. Accordingly, for at least the reasons given above in relation to claim 24, the rejection of claim 3-9 under 35 USC §103(a) over Bedard in view of Smith in further view of Abecassis and in further view of Maissel should also be withdrawn.

A petition for a three (3) month extension of time is transmitted herewith, along with authorization to charge the requisite fee. If required, the Commissioner is hereby petitioned, under 37 C.F.R. § 1.136 (a), to extend the time for filing a response to an outstanding Office Action, or any communication filed in this application by this company, by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this company) to Deposit Account No. 07-0832 of Thomson Licensing LLC.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (617) 868-8870, so that a mutually convenient date and time for a further telephonic interview may be scheduled.

Respectfully submitted,



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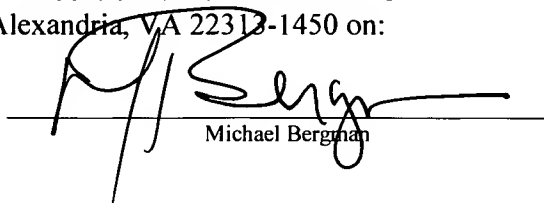
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